APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,987	11/21/2001	Risto Kivipuro	460-010723-US(PAR)	3443

2512   7590   11/10/2008
PERMAN & GREEN
425 POST ROAD
FAIRFIELD, CT 06824

EXAMINER
WINTER, JOHN M

ART UNIT	PAPER NUMBER
3685	

MAIL DATE	DELIVERY MODE
11/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)	
Office Action Summary	09/990,987	KIVIPURO ET AL.	
	Examiner	Art Unit	
	JOHN M. WINTER	3685	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

    A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
    WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>22 July 2008</u>.
2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
    closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>2-14,16-25 and 33-45</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) <u>2-14, 16-25 and 33-45</u> is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All   b) ☐ Some * c) ☐ None of:
        1. ☐ Certified copies of the priority documents have been received.
        2. ☐ Certified copies of the priority documents have been received in Application No. _____.
        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
            application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Acknowledgements

1.   Applicants' amendment filed on July 22, 2008 is hereby acknowledged.

   Accordingly, claims 2-14, 16-25 and 33-45 remain pending.

Response to Arguments

2.   The Applicants arguments filed on July 22, 2008 have been fully considered.

The Applicant states that the prior art record fails to disclose the claimed feature of "device

   specific content packet".

3.   The Examiner states that that this feature is commonly used by any system utilizing a

   network with a digitally signed packets, commonly used in secure networks and content

   distribution systems; a device could utilize a public key or digital certificate to "sign" data

   packets, when received these packets would only be able to be authenticated by a device with

   the proper corresponding key etc.. (i.e. device specific content packet).   See *e.g.* Yianolos et.

   al. (U.S. 2001/0056533 – paragraphs 41-44) for a typical implementation of such a system.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all

   obviousness rejections set forth in this Office action:

   (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102
       of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject
       matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the
       art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was
       made.

5.   Claims 2-14, 16-25 and 33-45 are rejected under 35 U.S.C. §103 as being unpatentable

over Kaydyk et al (6,209,111) in view of either Ginter et al (U.S. 5,892,900) or Watanabe et al

(U.S. 6,084,888).

6.   Regarding claim 35, Kaydyk et al (See Figs. 7 and 11, Col. 1, lines 45-65, Col. 9, lines

50-65,) disclose a method for associating content with a data structure (header) in a wireless

communication device substantially as claimed. The differences between the above and the

claimed invention is the use of explicit data structure definition. It is noted that the claim

appears to read on all wireless packets with headers. It is further noted that metadata describes

or defines other data and is normally present as a constituent of complex header data. Each of

Ginter et al (See Figs 5b, 17, 20, 26-30, Col. 284, lines 15- 40) or Watanabe et al (See Fig. 5-

7, 11-12 and claims 1-11) show packets with complex headers in a wireless environment

including metadata. It would have been obvious to the person having ordinary skill in this art

to provide a similar arrangement for Kaydyk et al because packet headers are conventional

functional equivalents of the claim limitations; furthermore the combination of these elements

does not alter their respective functions, and the combination would have yielded predictable

results to one of ordinary skill in the art at the time of the invention.

7.   Official Notice is taken that "a device specific content packet" is common and well

known in prior art in reference to network protocols. Therefore it would have been obvious to

one having ordinary skill in the art at the time the invention was made to utilize a device

specific content packet in order to authenticate the client device. The Examiner notes that this

feature is commonly used by any system utilizing a network with a digitally signed packets,

commonly used in secure networks and content distribution systems. See *e.g.* Yianolos et. al.

(U.S. 2001/0056533 – paragraphs 41-44) for a typical implementation of such a system.

8.   Regarding the data limitations of claim 2, Ginter et al (See Figs 5b, 17, 20, 26-30) or

watanabe et al (see Fig. 5-7, 11-12 and claims 1-11) show packets with complex headers in a

wireless environment that are conventional functional equivalents of the claim limitations.

9.   Official Notice is taken that "a device specific content packet" is common and well

known in prior art in reference to network protocols. It would have been obvious to one

having ordinary skill in the art at the time the invention was made to utilize a device specific

content packet in order to authenticate the client device. The Examiner notes that this feature

is commonly used by any system utilizing a network with a digitally signed, commonly used

in secure networks and content distribution systems. See *e.g.* Yianolos.

10.   Xlaims 35, 36, 43 and 44 are in parallel with claim 35 and are rejected for at least the

same reasons.

11.   Regarding server limitations of claim 3, Kaydyk et al (See elements 12 or 16) disclose

web server equivalents that are conventional functional equivalent of the claim limitations.

12.   Regarding storage limitations of claim 4, Kaydyk et al (See elements 59 and 61) disclose

storage that is conventional functional equivalent of the claim limitations.

13.   Regarding the separate storage limitations of claim 5, Kaydyk et al (See Figs. 7 and 11,

Col. 1, lines 45-65, Col. 9, lines 50-65,) disclose a method for associating content with a

separate data structure (header) in a wireless communication device that are conventional

functional equivalents of the claim limitations.

14.   Regarding definition limitations of claim 6, Ginter et al (See Figs 5b, 17, 20, 26-30) show
        content definition within a complex packet header that is conventional functional equivalent of
        the claim limitations.

15.   Regarding charge limitations of claim 7, Ginter et al (See Figs 5b, 17, 20, 26-30) show
        content definition within a complex packet header that includes usage charge that is
        conventional functional equivalent of the claim limitations.

16.   Regarding protection limitations of claim 8, Ginter et al (See Figs 5b, 17, 20, 26-30)
        show content definition within a complex packet header that includes copy protection that is
        conventional functional equivalent of the claim limitations.

17.   Regarding the encryption limitations of claim 9, Ginter et al (See Figs 5b, 17, 20, 26-30)
        show content definition within a complex packet header that includes encryption that are
        conventional functional equivalents of the claim limitations.

18.   Regarding content limitations of claim 10, Ginter et al (See Figs 5b, 17, 20, 26- 30) show
        multimedia content definition within a complex packet header that is conventional functional
        equivalent of the claim limitations.

19.   Regarding executable limitations of claim 11, Ginter et al (See Figs 5b, 17, 20, 26-30)
        show content definition within a complex packet-header that includes executable code that is
        conventional functional equivalent of the claim limitations.

20.   Regarding storage limitations of claim 12, Ginter et al (See Figs 5b, 17, 20, 26-30) show
        content definition within a complex packet header that includes storage definition that is
        conventional functional equivalent of the claim limitations.

21.   Regarding classification limitations of claim 13 Ginter et. al. (See Figs 5b, 17, 20, 26-30)

         show content definition within a complex packet header that includes multimedia data

         classified by type that is conventional functional equivalent of the claim limitations.

22.   Regarding information limitations of claim 14, Ginter et al (See Figs 5b, 17, 20, 26-30)

         show content definition within a complex packet header that includes new data that is

         conventional functional equivalent of the claim limitations.

23.   Regarding the data limitations of claim 16, Ginter et al (See Figs 5b, 17, 20, 26- 30) or

         Watanabe et al (See Fig. 5-7, 11-12 and claims 1-11) show packets with complex headers in a

         wireless environment that are conventional functional equivalents of the claim limitations.

24.   Regarding server limitations of claim 17, Kaydyk et al (See elements 12 or 16) disclose

         web server equivalents that are conventional functional equivalent of the claim limitations.

25.   Regarding the separate storage limitations of claim 18, Kaydyk et al (See Figs. 7 and 11,

         Col. i, lines 45-65, Col. 9, lines 50- 65,) disclose a method for associating content with a

         separate data structure (header) in a wireless communication device that are conventional

         functional equivalents of the claim limitations.

26.   Regarding version limitations of claim 19, Ginter et al (See Figs 5b, 17, 20, 26-30) show

         different content definition within a complex packet header that is conventional functional

         equivalent of the claim limitations.

27.   Regarding definition limitations of claim 20, Ginter et al (See Figs 5b, 17, 20, 26-30)

         show content definition within a complex packet header that is conventional functional

         equivalent of the claim limitations.

28.   Regarding charge limitations of claim 21, Ginter et al (See Figs 5b, 17, 20, 26- 30) show

content definition within a complex packet header that includes usage charge that is

conventional functional equivalent of the claim limitations.

29.   Regarding protection limitations of claim 22, Ginter et al (See Figs 5b, 17, 20, 26-30)

show content definition within a complex packet header that includes copy protection that is

conventional functional equivalent of the claim limitations.

30.   Regarding the encryption limitations of claim 23, Ginter et al (See Figs 5b, 17, 20, 26-30)

show content definition within a complex packet header that includes encryption that are

conventional functional equivalents of the claim limitations.

31.   Regarding classification limitations of claim 24 Ginter et al (See Figs 5b, 17, 20, 26-30)

show content definition within a complex packet header that includes multimedia data

classified by type that is conventional functional equivalent of the claim limitations.

32.   Regarding searching limitations of claim 25, Ginter et al (See Figs 5b, 17, 20, 26-30)

show content definition within a complex packet header that includes pointers that is

conventional functional equivalent of the claim limitations.

33.   Regarding claim 33, Kaydyk et al (See Figs. 7 and ii, Col. i, lines 45-65, Col. 9, lines 50-

65,) disclose a method for associating content with a data structure (header) in a wireless

communication device substantially as claimed. The differences between the above and the

claimed invention is the use of explicit data structure definition. It is noted that the claim

appears to read on all wireless packets with headers. It is further noted that metadata describes

or defines other data and is normally present as a constituent of complex header data. Each of

Ginter et al (See Figs 5b, 17, 20, 26-30, Col. 284, lines 15-40) or Watanabe et al (See Fig. 5-7,

11-12 and claims 1-11) show packets with complex headers in a wireless environment including metadata and storage. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Kaydyk et al because packet headers are conventional functional equivalents of the claim limitations.

Official Notice is taken that "examining the data structure of the content packet to identify download properties of the content packet and compatibility of the at least one content component with the wireless device; selectinq at least one content component which said examining indicated is compatible with the wireless device;" is common and well known in prior art in reference to network protocols (Examiner notes that the term "data structure" is construed as including a digital certificate). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize a device specific content packet in order to authenticate the client device. The Examiner notes that this feature is commonly used by any system utilizing a network with a digitally signed packets, commonly used in secure networks and content distribution systems. See *e.g.* Yianolos for a typical implementation. – Examiner notes that the system described is tied to a unique system implementation by the use of a specific key.

Examiner notes that the language "to identify download properties of the <u>device specific</u> content packet and compatibility of the at least one <u>device specific</u> content component with the particular wireless device; selecting at least one <u>device specific</u> content component which said examining indicated is compatible with the particular wireless device; "is representative of non-functional descriptive information and it has been held such information will not distinguish a

claimed device from the prior art (*In re Gulack*, 217 USPQ 401 (Fed. Cir. 1983), *In re Ngai*, 70

USPQ2d (Fed. Cir. 2004), *In re Lowry*, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.01).

34.   Regarding selection limitations of claim 36, Ginter et al (See Figs 5b, 17, 20, 26-30, Col.

284, lines 15-40) show content definition within a complex packet header that includes

metadata and multimedia data classified by type that is conventional functional equivalent of

the claim limitations.

35.   Regarding content limitations of claims 37-42, Ginter et al (See Figs 5b, 17, 20, 26-30,

Col. 284, lines 15-40) show content definition within a complex packet header that includes

metadata, content descriptors, and multimedia data classified by type that is conventional

functional equivalent of the claim limitations.

36.   Regarding claim 43, Kaydyk et al (See Figs. 7 and 11, Col. 1, lines 45-65, Col. 9, lines

50-65,) disclose a means for associating content with a data structure (header) in a wireless

communication device substantially as claimed. The differences between the above and the

claimed invention is the use of explicit data structure definition. It is noted that the claim

appears to read on all wireless packets with headers. It is further noted that metadata describes

or defines other data and is normally present as a constituent of complex header data. Each of

Ginter et al (See Figs 5b, 17, 20, 26-30, Col. 284, lines 15- 40) or Watanabe et al (See Fig. 5-

7, 11-12 and claims i-ii) show packets with complex headers in a wireless environment

including metadata. It would have been obvious to the person having ordinary skill in this art

to provide a similar arrangement for Kaydyk et al because packet headers are conventional

functional equivalents of the claim limitations.

37.   Regarding claim 44, Ginter et al (See Figs 5b, 17, 20, 26-30, Col. 284, lines 15-40) show

content definition within a complex packet header that includes metadata and multimedia data

classified by type that is conventional functional equivalent of the claim limitations.

38.   Regarding claim 45, Ginter et al (See Abstract, Figs 5b, 17, 20, 26-30, Col. 284, lines

15-40) shows wherein each content component comprises a media presentation.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office

action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant

is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from

the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the

mailing date of this final action and the advisory action is not mailed until after the end of the

THREE-MONTH shortened statutory period, then the shortened statutory period will expire

on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a)

will be calculated from the mailing date of the advisory action. In no event, however, will the

statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner

should be directed to JOHN M. WINTER whose telephone number is (571)272-6713. The

examiner can normally be reached on M-F 8:30-6, 1st Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,

Calvin Hewitt can be reached on (571) 272-6709. The fax phone number for the organization

where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application

Information Retrieval (PAIR) system. Status information for published applications may be

obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private

PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If

you would like assistance from a USPTO Customer Service Representative or access to the

automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JMW

/Calvin L Hewitt II/
Supervisory Patent Examiner, Art Unit 3685